#### UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

|                         | ) |                     |
|-------------------------|---|---------------------|
| IN RE BIOGEN IDEC, INC. | ) | <b>CIVIL ACTION</b> |
| SECURITIES LITIGATION   | ) | NO. 05-10400-RCL    |
|                         | ) |                     |

## **DEFENDANT THOMAS J. BUCKNUM'S** MOTION TO DISMISS THE CONSOLIDATED CLASS ACTION COMPLAINT

Pursuant to Fed. R. Civ. P. 12(b)(6), 12(b)(1), and 9(b), defendant Thomas J. Bucknum ("Bucknum") moves to dismiss, with prejudice, the one and only count asserted against him in the Consolidated Class Action Complaint (Docket No. 77). The grounds for this motion are set forth in the accompanying Memorandum in Support of Defendant Thomas J. Bucknum's Motion to Dismiss the Consolidated Class Action Complaint. In addition, Bucknum has attached to his memorandum two documents (Exhibits A and B) that are central to and/or referenced in the Consolidated Class Action Complaint.<sup>1</sup>

#### **REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(D), Bucknum respectfully requests oral argument on this motion.

<sup>&</sup>lt;sup>1</sup> If a document that is not attached to the Amended Complaint is central to Plaintiffs' claim and/or is referred to in the Amended Complaint, the Court may properly consider it without converting a motion to dismiss under Rule 12(b)(6) to a motion for summary judgment under Rule 56. See, e.g., Beddall v. State St. Bank & Trust Co., 137 F. 3d 12, 17 (1st Cir. 1998); Watterson v. Page, 987 F.2d 1, 3-4 (1st Cir. 1993); Romani v. Shearson Lehman Hutton, 929 F. 2d 875, 879 n. 3 (1st Cir. 1991); Fudge v. Penthouse Int'l, Ltd., 840 F.2d 1012, 1015 (1st Cir. 1988).

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# LOCAL RULE 7.1 CERTIFICATION

I, Mark A. Berthiaume, hereby certify that I have conferred with counsel for Plaintiffs who is expecting this motion based on communications with counsel and a stipulation on file with the Court concerning the briefing schedule regarding same, and consequently, the parties have not been able to resolve or narrow the issues involved in this motion.

Dated: January 10, 2007 /s/ Mark A. Berthiaume

Mark A. Berthiaume

Respectfully submitted,

/s/ Mark A. Berthiaume

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Boston, MA 02110 Tel: (617) 310-6000

Fax: (617) 310-6001 Dated: January 10, 2007

### **CERTIFICATE OF SERVICE**

I, Edward E. Hale, Jr., hereby certify that on January 10, 2007, a true copy of the foregoing document was filed through the ECF system and served electronically upon registered ECF participants as identified on the Notice of Electronic Filing, and I further certify that paper copies of the foregoing document will be sent to counsel of record not registered with ECF on January 10, 2007.

> /s/ Edward E. Hale, Jr. Edward E. Hale, Jr.